

**MINUTES  
COLUMBUS BOARD OF ZONING APPEALS  
OCTOBER 26, 2010  
COUNCIL CHAMBERS, 2<sup>nd</sup> FLOOR, CITY HALL  
123 WASHINGTON STREET  
COLUMBUS, INDIANA**

**Members Present:** Mary Ferdon, Chairperson; Dave Bonnell, Secretary;  
Lou Marr, and Jeff Sharp

**Staff Present:** Laura Thayer, Assistant Planning Director; Alan Whitted,  
Deputy City Attorney; Heather Pope and Thom Weintraut,  
Senior Planners; Derek Naber and Rae-Leigh Stark, Associate  
Planners; Stephanie Carr, Code Enforcement

**PUBLIC MEETING**

Mary Ferdon, Chairperson, opened the meeting with a brief explanation about the Board and its responsibilities.

The petitions and staff comments are a permanent record at the Planning Department.

Alan Whitted, Deputy City Attorney, administered the oath to all in attendance that would be speaking.

**OLD BUSINESS REQUIRING BOARD ACTION**

**C/DS-10-17; Zwanzigz**

Zwanzigz Pizza is a request for a development standards variance from Zoning Ordinance Section 3.17(C) to reduce the front setback on 11<sup>th</sup> Street from 5 feet to 1 foot, 4 inches; a development standards variance from Zoning ordinance Section 7.1(Table 7.2) to allow a total of 24 parking spaces; 13 fewer than required; and a development standards variance from Zoning Ordinance Section 7.2(Part 4)(B)(4) to allow the aisle width for 60 degree parking to be 16.5 feet, 1.5 feet narrower than required. The property is located at 1038 Lafayette Avenue in the City of Columbus.

Kurt and Lisa Zwanzig stated their names and address into the record.

Ms. Pope said the applicants have requested four development standards variances, in order to expand their existing building by an additional 1,800 square feet to enlarge the kitchen/prep area and additional seating.

Ms. Pope said all the variances are related to the proposed building expansion and the reconfiguration of parking on site.

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Ms. Pope said that at the September 28, 2010 Board of Zoning Appeals meeting the Board voted to continue all four variances to allow the petitioner an opportunity to meet with the neighbors to discuss their proposed plans.

Kurt Zwanwig said that at the last meeting the Board had suggested that they meet with their neighbors and talk over their variance request.

He said the neighbors had elected Sheryl Nulph to represent the neighbors who were opposed to the project at the last meeting.

He said that the neighbors did not have a problem with the 1<sup>st</sup>, 3<sup>rd</sup> and 4<sup>th</sup> variance request, but they were opposed to the 2<sup>nd</sup> request which was to allow a total of 24 parking spaces, 13 fewer parking spaces than required.

Mr. Zwanwig said that they hired a security guard the day before the last meeting, because the days leading up to the meeting they had been getting a lot of calls from neighbors. He said the goal was for security to sit for 4 hours at their busiest time and wait for people to park in any of the neighbors private parking places and watch for any other kind of incidents that might occur.

Mr. Zwanwig said they were there for 2 nights for about 4 hours and there was not a single incident. He said also they have a policy about picking up the trash daily and that is on their checklist.

Mr. Zwanwig said most of the trash is in the landscape area and it is stuff that they don't even sell. He said they started a trouble log booklet and any problem that is brought to their attention is placed in this book and the action that is taken. This would include the parking issues also.

The meeting was open to the public.

Sheryl Nulph, 1027 Franklin, read a letter into the record representing the neighbors who border the property in question.

She said that the only variance request the neighbors were opposed to was the 2<sup>nd</sup> request to allow a total of 24 parking spaces, 13 fewer than required.

Jennifer Nulph, 1023 Franklin Street, was opposed to the request.

Jackie Ayers, 2880 S. Lake Drive, was in favor of the petition.

Richard Herman, 3335 Virginia, was in favor of the variance request.

Ms. Ferdon read letters from people who were not in favor of the petition request:

Carole Owings, 11884 W 50 South

Rob Owings

Aaron L. Williams, 711 Pearl St

Brian Walters

Ms. Ferdon read a letter from Sally Fiesbeck in favor of the petition.

The meeting was closed to the public.

Jeff Sharp made a motion to approve **C/DS-10-17**, variance request number 1, to reduce the front setback on 11<sup>th</sup> Street from 5 feet to 1 foot, 4 inches, based on the findings of fact as presented by staff. Dave Bonnell seconded the motion and it passed 4-0.

Lou Marr made a motion to approve **C/DS-10-17**, variance request number 3, to allow parking spaces to be 16 feet long, 2 feet shorter than required, accepting staff's findings of fact. Jeff Sharp seconded the motion and it passed 4-0.

Jeff Sharp made a motion to approve **C/DS-10-17**, variance request number 4, to allow the aisle width for 60 degree parking to be 16.5 feet, 1.5 feet narrower than required, accepting the staff's findings of fact. Dave Bonnell seconded the motion, and it passed 4-0.

Lou Marr made a motion to deny **C/DS-10-17**, variance request number 3, to allow a total of 24 parking spaces, 13 fewer parking spaces than required. The motion was seconded by Mary Ferdon, and passed 3-1.

## **NEW BUSINESS REQUIRING BOARD ACTION**

### **C/CU-10-17: Michael and Nikolette Clark**

Michael and Nikolette Clark are requesting a conditional approval to allow a large scale recreational use (horse-riding lesson facility) in an AP (Agriculture Preferred) zoning district. The property is located at 5695 West County Road 200 South in Columbus Township.

Michael and Nikolette Clark stated their names and address for the record.

Ms. Pope began by reading the background into the record along with a power point presentation.

Ms. Pope said that the case was originally heard by the Hearing Officer at its October 12, 2010 meeting at which time it was forwarded to the full Board due to a complaint about vehicular circulation. She said the applicant has indicated that the proposed conditional use will allow a large scale recreational use, specifically a horse-riding lesson facility.

Ms. Pope said that the only issue the Fire Department had was making sure their exits were marked and they would need emergency backup lighting as well as a hard surface for handicap parking.

Ms. Clark said that they do have security lights and indoor riding arena.

Ms. Clark said the riding instructions will be provided by appointment only between the hours of 8:00 a.m. to 8:00 p.m., Monday through Thursday, with an occasional riding class on Friday or Saturday, for patrons ages 5 years old and up. She said that they supply the horses for the kids to ride.

Mr. Clark said that they had added gravel to widen the driveway, and bordered it with used railroad ties .

The meeting was open to the public hearing.

Mary Ferdon read a letter from Tim and Cassandra McGraw. Ms. McGraw had an accident with her car at the site and was opposed to the request.

Pat Sass from Nashville Indiana was in favor of the petition.

Heather Simms was in favor of the petition.

Jason Christophel was in favor of the petition.

Jason Owens was in favor of the petition.

The meeting was closed to the public.

Dave Bonnell made a motion to approve **C/CU-10-17** based on the finding of fact as presented by staff with staff recommendations on the signage and concrete.

Lou Marr seconded the motion, stating that this is the type of business that is very good for the Agriculture Preferred zoning district. The motion passed 4-0.

**C/CU-10-16: Joshua Kestler**

Joshua Kestler is requesting an approval of a home based business (small engine sales and service) in the AP (Agriculture Preferred) zoning district, per Zoning Ordinance Section 6.6(Part 2). The property is located at 7531 West State Road 46 in Harrison Township.

Joshua and George Kestler stated their names and addresses into the record.

Ms. Stark began the meeting with a point presentation and read the findings of fact into the record.

Ms. Stark said that the subject property has a 2 car attached garage and a driveway with enough parking for at least 2 vehicles and also has a second parking area located near the detached garage where the proposed home based business will be located.

She said the second parking area is 30 by 50 feet with enough space for at least 3 vehicles.

Mr. Kestler said that the business would be on a part time basis. He said that he and his son both had full time jobs and they would be open evenings between 6:00 and 7:00 p.m.

There was no one to speak at the public hearing.

Dave Bonnell made a motion of approve **C/CU-10-16**, accepting findings of fact and conditions as presented by staff. Jeff Sharp seconded the motion and it passed 4-0.

**C/DS-10-25: Benita and Ken Federle**

Benita and Ken Federle are requesting a development standards variance from Zoning Ordinance Section 6.1(Table 6.1) to allow an accessory dwelling in a RS4 (Single Family Residential) zoning district; and a development standards variance from Zoning Ordinance Section 7.1(Table 7.1) to allow a residential property with 2 dwelling units to have 3 parking spaces, instead of 4 as required. The property is located at 2219 Home Avenue in the City of Columbus.

Benita and Ken Federle stated their names and address into the record.

Ms. Stark began by reading the background for the record along with a power point presentation.

Ms. Stark said that the applicant has indicated that the proposed variance from is for the purpose of relief of the requirement to completely enclose a swimming pool by a fence, at least 5 feet in height. The applicants are proposing a 5 foot iron fence to surround three of the four sides of their yard (front and both side yards). Their yard abuts North Lake and is proposed to act as a natural barrier.

Ms. Stark said that swimming pools greater than 18 inches in depth shall be completely enclosed by a fence equipped with a self-closing, self-latching lockable gate at any access point. The fence shall be a minimum of 5 feet in height.

Ms. Stark said that the City Engineering Department stated there is a drainage and utility easement on the north and south lot lines of this site, therefore the proposed fence will be at a risk if there is utility work needed.

Ms. Stark said the Code Enforcement office said if the variance is approved; a power safety cover will be required to comply with the Indiana Swimming Pool Code requirements for a safety barrier.

Ms. Federle stated that that if the variance was approved they would consider either getting the State Variance approved to or get a rectangular shaped pool with an electronic pool cover.

Ms. Ferdon opened the public hearing.

There was no one to speak at the public hearing.

Ms. Ferdon closed the public hearing.

Mr. Federle said they did talk to the one neighbor that is adjacent to their property and they were not opposed of the variance request.

Ms. Federle said that the Tipton Lake Association had already approved their request. She said they were aware of the process and they were waiting on the landscaping plans.

Ms. Ferdon said that she had concerns about safety issues without a fence around the pool.

There was a brief conversation on access to the pool from the lake and safety issues.

Dave Bonnell made a motion to deny **C/DS-10-25**, accepting the staff's findings of fact 2. He said criterion 1 was not met because the lake did not create a natural barrier, and that criterion 3 was not met because the ordinance did not prevent the petitioner from having a pool and using the property. The motion was seconded by Lou Marr, and passed 3-1.

Ms. Federly asked if there was an appeal process, and Mr. Whitted stated she would need to file writ of certiorari with the Circuit Court asking the Court to review the decision.

**C/DS-10-26 Edna Derringer**

Edna Derringer is requesting a development standards variance from Zoning Ordinance Section 6.1(Table 6.1) to allow an accessory dwelling in a RS4 (Single Family Residential) zoning district; and a development standards variance from Zoning Ordinance Section 7.1(Table 7.1) to allow a residential property with 2 dwelling units to have 3 parking spaces, instead of 4 as required. The property is located at 2219 Home Avenue in the City of Columbus.

Edna Derringer and her son Eric Derringer stated their names and address into the record.

Derek Naber began by reading the background into the record and presented a power point presentation.

Mr. Naber said there were no comments from the City Engineering Department, City Utilities and Fire Department.

Ms. Derringer stated that she was not in good health and she would like to rent out the room above the garage to her son so he can be close to her if she needed help. She said she had been told it had been a rental in the past and her son would upgrade the exterior of the garage and carport and they would hook up to City sewer.

Ms. Derringer said that her son is a smoker and she is allergic to smoke and he could help her pay the bills while living there.

The meeting was open to the public.

Dean ?, of 2228 Newton Street and Scott Swanger of 2216 Newton Street spoke in favor of the request.

The letters from the following people were read into the record opposed to the variance request:

Bob Lacefield  
Martin and Regina Ballard  
Danny Bates  
Naomi and Roger Muselman  
Bob and Tami Heiman  
Dr. Dale Toennisson,  
Dr. John and Wanda Hicks  
Tom and Elizabeth Webber  
Helen Thomas  
Joann Longest  
Al and Janet Hill  
Jason Guthrie, Attorney, on behalf of Tracey Thomas-Davis

The meeting was closed to the public.

Lou Marr made a motion to approve **C/DS-10-26**, variance number 1, to allow an accessory dwelling in an RS4 zoning district based on the findings of fact as presented by staff for criterion number 1. She said that criterion 2 would be met if the property was brought up to code, and that the alley would be safer since someone would be living there. She said that criterion 3 was met because there is already an upstairs apartment, and, if left in its current condition, the building would become an eyesore and a hindrance to the surrounding neighborhood.

Ms. Marr also added that the accessory dwelling shall have access to the public sewer system and all codes must be met. Dave Bonnell seconded the motion, and it passed 3-1.

There was a brief discussion about the parking.

Mr. Derringer said there are 3 parking spaces available and there is a potential for another parking space in the garage.

Ms. Ferdon said that it might take some investigation, but a variance for the number of parking spaces might not be needed.

Mr. Derringer said if they continued the request he could bring photos of the parking.

Ms. Marr made a motion to continue **C/DS-10-26**, variance request number 2, to allow 3 onsite parking spaces, 1 fewer than required. Jeff Sharp seconded the motion, and it passed 4-0.

## **FINDINGS OF FACT**

### **C/DS-10-12: Columbus Regional Hospital**

Dave Bonnell made a motion to accept the findings of fact, which was seconded by Jeff Sharp. The motion carried by a vote of 4-0.

### **C/DS-10-14: United Way of Bartholomew County**

Jeff Sharp made a motion to accept the findings of fact, which was seconded by Dave Bonnell. The motion carried 4-0.

### **C/DS-10-18: Mike Mount**

Dave Bonnell made a motion to accept the findings of fact, which was seconded by Jeff Sharp. The motion carried 4-0.

### **C/CU-10-14: Gladstone Apartments**

Lou Marr made a motion to accept the findings of fact, which was seconded by Dave Bonnell. The motion carried 4-0.

### **C/DS-10-21: Gladstone Apartments**

Lou Marr made a motion to accept the findings of fact, which was seconded by Jeff Sharp. The motion carried 4-0.



## **APPROVAL OF MINUTES**

Upon the motion made by Lou Marr and seconded by Jeff Sharp, the minutes of the September 28, 2010 were approved 4-0.

## **DISCUSSION**

Laura Thayer stated that the board had requested that alternates be appointed for Mary Ferdon, Jeff Sharp, and Tom Wetherald. She said that the Mayor had been asked to make these appointments, and that Dave Fisher would be appointed as the alternate for Tom.

She said that an alternate had not been determined yet for Mary Ferdon and Jeff Sharp, but it would be someone who was not a member of the Planning Commission.

There being no further business the meeting was adjourned.

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Mary Ferdon, Chair

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Dave Bonnell, Secretary